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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,520	12/19/2003	Hermann Calabria	D/A3360Q1 XERZ 2 00688	7681
27885	7590	03/16/2010		
FAY SHARPE LLP 1228 Euclid Avenue, 5th Floor The Halle Building Cleveland, OH 44115			EXAMINER SORKOWITZ, DANIEL M	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 03/16/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/743,520

Applicant(s)

CALABRIA ET AL.

Examiner

DANIEL SORKOWITZ

Art Unit

3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see below.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 2/1/10
13. ☐ Other: _____.

/Michael Bekerman/
Primary Examiner, Art Unit 3622

Applicant argues regarding claim 1 that "The December 16, 2009 Office Action does not cite any portion of Skinner or any other reference for disclosure of element g) of claim 1" and "that rejection of claim 1 under § 102(e) over Skinner is clear error". The Examiner disagrees. The Examiner believes Final Office Action properly cited the reference of Skinner for a 102(e) rejection over every element of claim 1. The cited section of Skinner anticipates the claim language of element g) calculating an optimized bid for each advertisement-keyword pair created in d) based at least in part on the corresponding ROAI calculated in f), by disclosing a system to calculate bids with the highest return on investment for advertisements of advertisement-keyword pairs. Therefore, Examiner believes reference is still a reasonable teaching of the claimed invention in this regard, and the 102e rejection still stands.

Applicant argues regarding claim 31 that "The Office Action does not cite any portion of Skinner or any other reference for disclosure of "calculating an optimized bid" limitation in the "bid determination system" element of claim 31" and "that rejection of claim 31 under § 102(e) over Skinner is clear error". The Examiner disagrees. The Examiner believes Final Office Action properly cited the reference of Skinner for a 102(e) rejection over every element of claim 31. The cited section of Skinner anticipates the claim language of calculating an optimized bid with a bid determination system by disclosing a system to calculate bids with the highest return on investment for advertisements of advertisement-keyword pairs. Therefore, Examiner believes reference is still a reasonable teaching of the claimed invention in this regard, and the 102e rejection still stands.

Applicant argues regarding claim 40 that "the Office Action does not cite any portion of Skinner or any other reference for disclosure of element f) of claim 40" and "that rejection of claim 40 under § 102(e) over Skinner is clear error". The Examiner disagrees. The Examiner believes Final Office Action properly cited the reference of Skinner for a 102(e) rejection over every element of claim 40. The cited section of Skinner anticipates the claim language of element f) g) automatically submitting the optimized bids calculated in f) to the competitive bidding process for placement of each candidate advertisement selected in a) in at least one publisher web page of the plurality of candidate publisher web pages selected in b), by disclosing a system to calculate bids with the highest return on investment for advertisements of advertisement-keyword pairs. These optimized bids are then automatically submitted, and the winners are placed in the selected publisher web page, which are then listed in a search results list web page. Therefore, Examiner believes reference is still a reasonable teaching of the claimed invention in this regard, and the 102e rejection still stands.

Applicant argues regarding claim 42 that "Skinner does not disclose or fairly suggest element a)-e) of claim 42 which clearly selects a candidate advertisement (element a)), selects a keyword based on the candidate advertisement (element b)), creates an advertisement-keyword pair (element c)), calculates a bid for an advertisement-keyword pair (element d)), and submits the bid for the advertisement-keyword pair (element e)). Accordingly, the Applicant respectfully submits that rejection of claim 42 under § 102(e) over Skinner is clear error.". The Examiner disagrees. The Examiner believes Final Office Action properly cited the reference of Skinner for a 102(e) rejection over every element of claim 42. The cited sections of Skinner, anticipates every element of claim 42, by disclosing a system to calculate bids with the highest return on investment for advertisements of advertisement-keyword pairs. These optimized bids are then automatically submitted, and the winners are placed in the selected publisher web page, which are then listed in a search results list web page. Therefore, Examiner believes reference is still a reasonable teaching of the claimed invention in this regard, and the 102e rejection still stands.

Applicant argues regarding claim 57 that "reasons for rejection of claim 57 are incomplete because citation of a reference in relation to element v) is omitted from the Office Action. Accordingly, the Applicant respectfully submits that rejection of claim 57 under § 102(e) over Skinner is clear error". The Examiner disagrees. The Examiner believes Final Office Action properly cited the reference of Skinner for a 102(e) rejection over every element of claim 57. The cited section of Skinner is believed to teach this element, by disclosing an automated web ranking system (para 37), selecting, creating, and optimizing bids of advertisements keyword pairs in search results lists. The cited sections of Skinner, anticipates every element of claim 57, section (v), by disclosing a system to calculate bids with the highest return on investment for advertisements of advertisement-keyword pairs. These optimized bids are then automatically submitted, and the winners are placed in the selected publisher web page, which are then listed in a search results list web page. Therefore, Examiner believes reference is still a reasonable teaching of the claimed invention in this regard, and the 102e rejection still stands.